

# **Exhibit 38**

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

In re

CUSTOMS AND TAX ADMINISTRATION OF  
THE KINGDOM OF DENMARK  
(SKATTEFORVALTNINGEN) TAX REFUND  
LITIGATION

This document relates to the cases identified on  
Schedule A to the Defendants' Second Set of  
Interrogatories to Plaintiff SKAT.

MASTER DOCKET

Civil Action No. 18-MD-2865 (LAK)

**PLAINTIFF SKATTEFORVALTNINGEN'S AMENDED  
RESPONSE AND OBJECTIONS TO INTERROGATORY  
NO. 10 FROM DEFENDANTS' SECOND SET OF INTERROGATORIES**

Pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure and the Local Rules of the United States District Court for the Southern District of New York (the "Local Rules"), Plaintiff Skatteforvaltningen ("SKAT") hereby serves the following amended response and objections to Interrogatory No. 10 from the Defendants' Second Set of Interrogatories to Plaintiff SKAT (the "Interrogatories"), dated February 24, 2021.<sup>1</sup>

SKAT's amended response to Interrogatory No. 10 is not an admission of the relevance or the admissibility into evidence of such response. No statement contained in the amended response shall be deemed to constitute an admission that any statement or characterization in Interrogatory No. 10 is complete or accurate. SKAT reserves the right to supplement or correct its amended response and to raise any additional objections deemed necessary and appropriate in light of the results of any further review.

---

1. SKAT hereby incorporates by reference the General Statements and Objections to the Instructions and Definitions set forth in SKAT's March 26, 2021 Responses and Objections to Defendants' Second Set of Interrogatories to Plaintiff Skatteforvaltningen.

SKAT's amended response to Interrogatory No. 10 is made solely for purposes of discovery in these actions. SKAT, in amending its previous response to Interrogatory No. 10, does not waive any objection based on relevance, materiality, competence, privilege, admissibility, authenticity, vagueness, ambiguity, undue burden, or other grounds, all of which objections and grounds are reserved and may be interposed at the time of any hearing or at trial. Further, SKAT amends its response to Interrogatory No. 10 without in any way implying that it considers the Interrogatory, or the amended response to the Interrogatory, to be relevant or material to the subject matter of this action. SKAT further does not waive the right to object on any ground at any time to a request for a further response to Interrogatory No. 10. Nor does SKAT waive the attorney-client privilege, work product privilege, or any other privileges with respect to the information called for in the Interrogatory.

No objection made herein, or lack thereof, shall be deemed a statement by SKAT as to the existence or non-existence of any information. SKAT's investigation and development of all facts and circumstances relating to these actions is ongoing. This amended response is made without prejudice and is not a waiver of SKAT's right to rely on other facts or documents at trial.

#### **AMENDED RESPONSE TO INTERROGATORY NO. 10**

##### **Interrogatory No. 10**

Identify the existence, custodian, location, and general description of repositories of Documents and/or Communications concerning the total amounts of divided withholding tax collected by SKAT in connection with each of the dividends declared by the following publicly traded Danish companies at their Annual General Meetings held on the corresponding dates listed in the table below:

<b>Issuer Name</b>	<b>Annual General Meeting Date</b>
AP Moeller-Maersk A/S - A Share	11-Apr-2013
AP Moeller-Maersk A/S - A Share	31-Mar-2014
AP Moeller-Maersk A/S - A Share	30-Mar-2015

AP Moeller-Maersk A/S - B Share	11-Apr-2013
AP Moeller-Maersk A/S - B Share	31-Mar-2014
AP Moeller-Maersk A/S - B Share	30-Mar-2015
Carlsberg A/S	21-Mar-2013
Carlsberg A/S	20-Mar-2014
Carlsberg A/S	26-Mar-2015
CHR Hansen Holding A/S	27-Nov-2012
CHR Hansen Holding A/S	26-Nov-2013
CHR Hansen Holding A/S	27-Nov-2014
Coloplast A/S	11-Dec-2012
Coloplast A/S	5-Dec-2013
Coloplast A/S	7-May-2014
Coloplast A/S	4-Dec-2014
Coloplast A/S	6-May-2015
Danske Bank A/S	18-Mar-2014
Danske Bank A/S	18-Mar-2015
D/S Norden A/S	23-Apr-2014
DSV A/S	12-Mar-2013
DSV A/S	12-Mar-2015
FLSmidth & Co. A/S	5-Apr-2013
FLSmidth & Co. A/S	26-Mar-2015
GN Store Nord	19-Mar-2015
H. Lundbeck A/S	21-Mar-2013
IC Group A/S	24-Sept-2014
Novo Nordisk A/S	20-Mar-2013
Novo Nordisk A/S	20-Mar-2014
Novo Nordisk A/S	19-Mar-2015
Novozymes A/S	28-Feb-2013
Novozymes A/S	26-Feb-2014
Novozymes A/S	25-Feb-2015
Pandora A/S	19-Mar-2014
Pandora A/S	18-Mar-2015
TDC A/S	8-Aug-2012
TDC A/S	7-Mar-2013
TDC A/S	7-Aug-2013
TDC A/S	6-Mar-2014
TDC A/S	7-Aug-2014
TDC A/S	5-Mar-2015
TDC A/S	7-Aug-2015
Tryg A/S	18-Apr-2013
Tryg A/S	3-Apr-2014
Tryg A/S	25-Mar-2015

Tryg A/S	12-Jul-2015
Vestas Wind Systems	30-Mar-2015

### **Amended Response to Interrogatory No. 10**

SKAT incorporates by reference Objections 1, 2, 3, 4, and 5 from the General Statements and Objections to the Instructions and Definitions set forth in SKAT's March 26, 2021 Responses and Objections to Defendants' Second Set of Interrogatories to Plaintiff Skatteforvaltningen.

Subject to and without waiving any objections, SKAT responds by stating that, as of August 1, 2013, company taxes are paid on a balance principle, in which a company's tax liabilities to SKAT are aggregated and offset by any tax credits/refunds due from SKAT to that company. As a result, to the extent a company has credits due from SKAT at the time dividend withholding tax is due, such amounts will offset the amount of withholding tax to be paid. Under that same principle, when SKAT receives payments from a company, such payments offset any outstanding tax liabilities owed to SKAT, starting with the oldest. SKAT's collection of dividend withholding tax will consequently depend on other taxes due from and any credits/refunds due to the dividend-issuing company and therefore is not separately accounted. Until August 1, 2013 company taxes were collected separately through SAP38, and a dividend withholding tax payment from a company was earmarked and allocated to a specific dividend withholding tax claim.

Dated: New York, New York  
September 21, 2021

HUGHES HUBBARD & REED LLP

By: /s/ Marc A. Weinstein

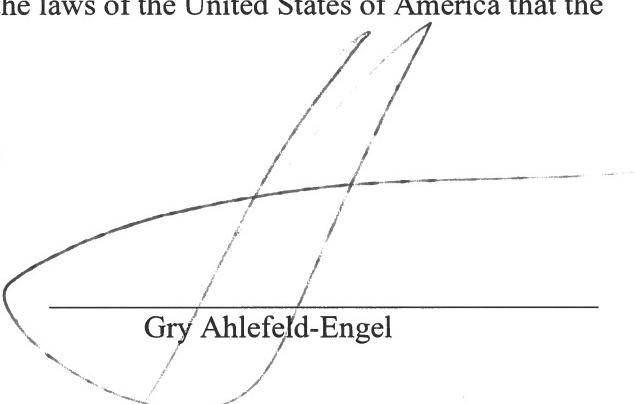
William R. Maguire  
Marc A. Weinstein  
Neil J. Oxford  
One Battery Park Plaza  
New York, New York 10004-1482  
Telephone: (212) 837-6000  
Fax: (212) 422-4726  
[bill.maguire@hugheshubbard.com](mailto:bill.maguire@hugheshubbard.com)  
[marc.weinstein@hugheshubbard.com](mailto:marc.weinstein@hugheshubbard.com)  
[neil.oxford@hugheshubbard.com](mailto:neil.oxford@hugheshubbard.com)

*Counsel for Plaintiff Skatteforvaltningen  
(Customs and Tax Administration of the  
Kingdom of Denmark)*

VERIFICATION

I, Gry Ahlefeld-Engel, am the Director of Skattestyrelsen, which is a division of Plaintiff Skatteforvaltningen. I am the agent of Skatteforvaltningen for the purpose of the Defendants' Second Set of Interrogatories. I have read the foregoing amended response to Interrogatory No. 10, which is true according to the best of my knowledge, information, and belief. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on September 21, 2021.



Gry Ahlefeld-Engel